

**CITY OF BIGGS**  
**PLANNING STAFF REPORT**

465 C Street  
P.O. Box 1134  
Biggs, CA 95917

PHONE: (530) 868-5447  
FAX: (530) 868-1124

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TO: Honorable Mayor and Members of the City Council

DATE: September 13, 2010

FROM: Scott Friend, AICP, City Planner  
Erin Dougherty, Planning Assistant

SUBJECT: Wilkinson Fence Permit– Review of Options for Issue Resolution

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**SUMMARY**

In late July letter regarding the issue was sent to the property owner informing them that the application for fence permit could not be approved as submitted as the front of the fence is located within the city right-of-way. The applicant is requesting that the City allow for the fence to be placed within the right-of-way as submitted in their application.

**BACKGROUND / DISCUSSION**

The subject lot, 369 B Street, is located on the south side of, and fronting, B Street and the southeastern corner of Second Street. The site is zoned with the R1, Single Family Residential. The property is currently developed with an existing single family residential dwelling. In early June of 2010, Mr. Wilkinson approached staff regarding the fence that was currently on the property (at property line along east side, and on south side property line) and the intent of replacing that fence along with adding a 3' picket fence around the west side and front of the property.

To accurately verify the placement of the fence outside of the city right-of-way, Planning Staff made a request to the City Public Works and City Engineers offices to locate the city right-of-way at that location. Upon receipt of the information from the City Engineer that the right-of-way was 19.5 feet from the top back of the curb on the B Street side of the property and 13' from the top back of curb on the Second Street side of the property. On July 13, 2010 staff received the application and after reviewing staff issued a letter to the property owner that the fence could not be approved as submitted.

Following the receipt of the letter Mr. Wilkinson contacted the Planning Department to inquire as to why other fences along B Street were allowed just behind or close to the sidewalk. Mr. Wilkinson explained that he had no real issues with the front fence location, but the fence fronting Second Street would go down the center of the olive trees that are planted there. Staff explained that while one of the fences had been approved in the past, it was part of a Conditional Use Permit for the property. Except for one other fence, those that are on B Street were installed years prior to the existing code and had been "grandfathered" in. Should those property owners want to make changes they would have to go through the same process and their fences most likely be moved.

## **BIGGS MUNICIPAL CODE**

The following sections of the Biggs Municipal Code (BMC) constitute the applicable code Sections utilized in the review and consideration of this request:

*Section 14.10.390: Definition of "Fence".*

"Fence" means a wall or barrier, typically constructed of wood, for the purposes of enclosing space, separating parcels of land and/or providing privacy. [Ord. 320 § 1, 1999]

*Section 14.60.080: Fences and landscaping – General height limitations:*

"(7) In no case shall a fence be closer than 15 feet from the right-of-way."

*Chapter 14.90 Exceptions. Section 14.90.010 and Section 14.90.020:  
Section 14.90.010:*

"The purpose of this chapter is to provide flexibility in the application of selected site development regulations where minor adjustments are needed. Exception shall only be granted for the site development standards cited in BMC 14.90.020 (Authority). Exceptions granted shall be compatible with adjoining uses and consistent with the purpose of this title and the specific zoning district in which the subject property is located. [Ord. 320 § 1, 1999]

In reviewing the applicant's fence permit request, staff denied the application due to the location within the city right-of-way.

## **STAFF RECOMMENDATION**

Staff recommends that Council deny the applicants request.

- Attachment A – Application
- Attachment B - Denial Letter
- Attachment C – Applicant's letter to Staff and to Council



City of Biggs  
Planning Department  
3016 Sixth Street  
P.O. Box 1134  
Biggs, CA 95917

# Fence Permit Application

Date: 7-13-10  
Received By: EPD

THIS FENCE PERMIT WILL BE ISSUED CONTINGENT UPON APPROVAL OF SPECIFICATIONS OUTLINED IN THIS APPLICATION WHICH MUST REFLECT A PROPOSED FENCE HEIGHT AND LOCATION CONSISTENT WITH ALL SECTIONS OF BIGGS MUNICIPAL CODE, INCLUDING CHAPTER 14.60 DEVELOPMENT STANDARDS - GENERAL. A COMPLETE APPLICATION IS REQUIRED FOR APPROVAL, AND CONSISTS OF 1) THIS APPLICATION FILLED OUT COMPLETELY; 2) FULL PAYMENT OF ASSOCIATED FEE; 3) ADEQUATE DRAWING (SITE OR FENCE PLAN). INSPECTION WILL FOLLOW FENCE CONSTRUCTION AND SERVES AS THE FINAL STEP OF THE PROCESS.

Date: 6-18-2010 Applicant: Nathan Wilkinson

Address: 369 B St.

Site Address (If different from above): \_\_\_\_\_ APN: 001-150-007

Business/Daytime Phone: 530-518-6065 Business Fax: \_\_\_\_\_ Mobile: \_\_\_\_\_

Owner: Ingersol Family Trust

Address: PO Box 100000 Biggs CA 95935

Business/Daytime Phone: 530-518-6061 Business Fax: \_\_\_\_\_ Mobile: \_\_\_\_\_

## DESCRIPTION OF FENCE AND MATERIALS TO BE USED

TYPE OF FENCE: ☒ Wood ☐ Chain Link ☐ Other: \_\_\_\_\_

HEIGHT OF FENCE: 6' in rear 3' in front

## CLASS OF WORK

☒ New ☐ Addition ☐ Repair

NOTE: All perimeter fencing or walls shall provide aesthetic values for off-site public viewing. Exterior surfaces and street sides of all fences shall be the finished side. Subdivision Conditions of Approval are private in scope and may be more restrictive than City Ordinances. Subdivisions may require a fencing permit for each type/style of fence to be constructed. Please refer to attached graphic and Biggs Municipal Code language for guidance.

SIGNATURE REQUIRED AND INDICATES UNDERSTANDING OF AND AGREEMENT TO CONDITIONS OF PERMIT:

[Signature]  
SIGNATURE OF OWNER  
[Signature]  
SIGNATURE OF APPLICANT

6-18-2010  
DATE  
6-18-2010  
DATE

THIS PERMIT BECOMES VOID AFTER SIX (6) MONTHS FROM THE APPROVAL DATE OF THIS PERMIT IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED, OR WORK IS SUSPENDED OR ABANDONED. WORK SHALL BE CONSIDERED SUSPENDED IF AN APPROVED INSPECTION HAS NOT BEEN MADE WITHIN A SIX (6) MONTH PERIOD FROM THE APPROVAL DATE OF THIS PERMIT. ISSUANCE OF PERMIT SHALL NOT BE HELD TO PERMIT OR TO BE AN APPROVAL OF THE VIOLATION OF ANY PROVISION OF ANY CITY OF BIGGS ORDINANCE, RESOLUTION, OR STATE LAW.

This section City of Biggs Official Use Only

FEE PAID? (\$25.00) Y N (circle one)

DATE 7-13-10 TAKEN BY MM

B St

Back of yard

12.5

• CORNER MARKERS

PROPERTY  
EXTERIOR FENCE 1.12

Picket 3' tall

19.5'

100'

Back of yard

2' Picket

90'

13'

90'

170'

40'

House

40' 6' cedar

10' of 6' cedar

18' 6' Cedar

5' Cedar

20' 6' cedar

15' 6"

50' of 6'

Box Cedar  
Cedar

6' cedar

Second

Planning Department  
465 C Street  
P.O. Box 1134  
Biggs, CA 95917  
Phone: (530) 868-5447  
Fax: (530) 868-1124

**Project Name:** Nathan Wilkinson – 2010-11FP  
**Location:** 369 B Street  
**APN#:** 001-150-007  
**Date:** July 23, 2010  
**Proposed Use:** New fence located in front yard with front part of fence to abut sidewalk, and replacement of rear and side yard fencing.

- ☐ Approved  
☐ Approved with Conditions  
☐ Resubmit with Requested Information  
☒ **Denied**

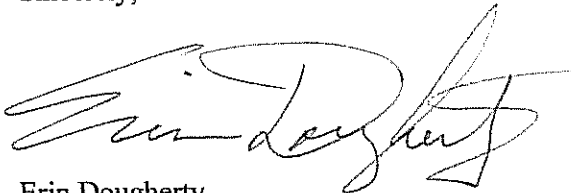
**Fence Permit Application for Nathan Wilkinson  
369 B Street, Biggs, CA;  
Assessor's Parcel Number: 001-150-007**

**Project:** Install white picket fence in front yard with northern and eastern portion to abut existing sidewalk.

The City of Biggs Planning and City Engineering Department has reviewed the proposed Site Plan for the above mentioned project. We are **unable to approve** the project as the fence would be within the City right-of-way. Within our review it has been noted that the fence, would need to be placed 19.5' from the top back of curb on the B Street portion and 13' from top back of curb on the Second Street portion.

If you have any further questions or concerns, please do not hesitate to contact the City of Biggs Planning Department at (530) 868-5447.

Sincerely,



Erin Dougherty  
City of Biggs Planning Department

cc:  
File

September 16, 2010

City of Biggs City Council  
465 C Street  
Biggs, CA 95917

Re: Denial of fence permit

This letter appeals the decision of the City of Biggs Planning Department to deny 2010-11FP located at 369 B St. On July 23, 2010 the Planning Department denied our fence permit, based on City Engineering Department requirements of a 19.5' setback from the back of the curb on B St. and a 13' setback on 2<sup>nd</sup> St.

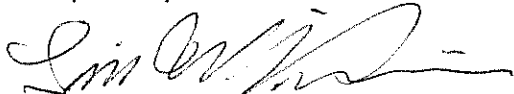
After considering various options to resolve this matter, we request the City Council allow an eye-pleasing picket fence on City right-of-way. Building a fence past the allowable setbacks would look out of place and inconsistent with the community intent. Visually, B St. is striking example of a charming small-town. Setting the fence according to Planning Department rules may be legally correct, but is architecturally wrong and not consistent with the desired theme.

Upon analysis, you will find the Planning Department's position in this matter is inconsistent with existing land use. There are sixteen fences on B St.; all except one are placed next to the sidewalk. The lone exception is only about ten inches from the sidewalk. To now impose a standard setback makes one property inconsistent with all others, a strange and illogical decision. As you can see from the attached pictures, a fence placed at the designated setback appears odd and irregular.

As a practical concern, to comply with Planning Department standards, the fence on 2<sup>nd</sup> St. intersects several beautiful olive trees, requiring posts placed on both sides of the base of each tree. Interfering with the root system of otherwise healthy trees places them at risk and to move the fence even further into the property puts the owner at an unreasonable disadvantage. Furthermore, the future addition of an underground water system would be better placed away from the base of the trees, along the parameter fence line. Should the municipality need access to the easement, the property owner understands he would be obliged to temporarily remove the fence at owner expense.

Clearly, we have benefitted the neighborhood by our substantial investment in the property and ask for relief from an inconsistently applied policy. In this specific case, the standards violate the visual affect desired and create other problems not fully considered by the Planning Department.

Thank you for your consideration of this matter,

A handwritten signature in black ink, appearing to read "Tim Wilkinson", with a stylized, flowing script.

Tim Wilkinson  
Trustee Ingersoll Family Trust